

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

NOREEN SALAZAR, Individually, and as
Wrongful Death Personal Representative of
THE ESTATE OF JOSEPH PORTILLO

Plaintiff,

v.

GINA BOCANEGRA, MICHAEL MOST
TRUCKING, INC., an Arizona For-Profit Corporation,
and DESERT TRAILER SYSTEMS, INC.,
An Arizona For-Profit Corporation

Defendants.

**NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §§ 1332 and 1441
BY DEFENDANTS GINA BOCANEGRA, MICHAEL MOST TRUCKING, INC.,
AND DESERT TRAILER SYSTEMS, INC.**

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendants Gina Bocanegra, Michael Most Trucking, Inc., and Desert Trailer Systems, Inc. hereby remove to this Court the state court action described below.

PLAINTIFF'S STATE COURT COMPLAINT AND REMOVAL

1. Plaintiff commenced this action in the fourth Judicial District court, County of San Miguel, State of New Mexico by filing her "Complaint to Recover Damages for Wrongful Death, Loss of Consortium, Spoliation of Evidence and Other Damages under the New Mexico Wrongful Death Act and New Mexico Statutory and Common Law" (hereinafter "Complaint"),

Cause No. D-412-CV-2011-640 on December 28, 2011. (*See*, Plaintiff's state court Complaint, attached hereto as Exhibit A).

2. Service of the original complaint was served on Defendants Gina Bocanegra, Michael Most Trucking, Inc., and Desert Trailer Systems, Inc. (hereinafter "Defendants") on January 4 and 5, 2012.

3. Defendants were provided thirty (30) days to file a responsive pleading to the Complaint.

4. Defendants' time to answer or remove with respect to the complaint has not expired.

5. This Notice of Removal is filed in this Court within thirty (30) days of the service of the initial pleading in this case on Defendants. (*See*, 28 U.S.C. § 1446(B)). The state court in which this action was commenced is within this Court's district. As set forth below, this Court has jurisdiction over the subject matter of this lawsuit. Therefore, this action is properly removed to this Court, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

DIVERSITY JURISDICTION

6. The Complaint alleges that Plaintiff Noreen Salazar is a natural person and a resident of San Miguel County, New Mexico. (*See*, Exhibit A, Compl. ¶1).

7. Defendant Gina Bocanegra is a natural person and a resident of Maricopa County, Arizona. (*See*, Exhibit A, Compl. ¶4).

8. Defendant Michael Most Trucking, Inc. is a foreign corporation, incorporated in the State of Arizona. (*See*, Exhibit A, Compl. ¶3).

9. Desert Trailer Systems, Inc. is a foreign corporation, incorporated in the state of Arizona. (*See*, Exhibit A, Compl. ¶5).

10. Therefore, complete diversity of citizenship exists for the purposes of this Court's original jurisdiction over the subject matter of this lawsuit.

11. This case arises from an automobile accident which occurred on Interstate 25 on or about December 29, 2010. (*See*, Exhibit A, Compl. ¶¶ 12, 16).

12. Decedent Joseph Portillo died as a result of his injuries arising out of the December 29, 2010, accident. (*See*, Exhibit A, Compl. ¶ 17).

13. Plaintiff's counsel has made a demand in excess of One Million Dollars (\$1,000,000.00) for the wrongful death of Joseph Portillo. (*See*, Exhibit B, Affidavit of Counsel, ¶ 6).

14. The above-described action is a civil action of which this Court has original jurisdiction under the provisions of 28 U.S.C. §§ 1332 and 1441 in that it is a civil action between citizens of different states where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. (*See, id.*).

15. Defendants are filing a Notice of Removal with the Clerk of the Fourth Judicial District Court, County of San Miguel, State of New Mexico, pursuant to 28 U.S.C. § 1441(b), together with this Notice.

16. Pursuant to D.N.M. LR-CIV 81.1(a), Defendants will submit copies of the records and proceedings from the state court action within thirty days of filing this Notice of Removal.

CIVEROLO, GRALOW, HILL & CURTIS
A Professional Association

By: 

Lance D. Richards

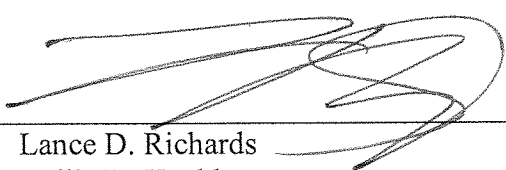
Kallie D. Kuehl

Attorneys for Defendants Gina Bocanegra,
Michael Most Trucking, Inc., and
Desert Trailer Systems, Inc.
20 First Plaza NW, Suite 500
Albuquerque, New Mexico 87102
(505) 842-8255

CERTIFICATE OF SERVICE

THIS WILL CERTIFY that a true copy of the foregoing Notice of Removal of Action was mailed on January 19, 2012, to counsel of record as follows:

Robert M. Ortiz, Esquire
Attorneys for Plaintiff
1720 Louisiana Blvd NE, Suite 100
Albuquerque, NM 87110
Phone: (505) 243-5566



Lance D. Richards
Kallie D. Kuehl